

AO 91 (Rev. 02/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the
Southern District of TexasUnited States District Court
Southern District of Texas
FILED

OCT 21 2016

David J. Bradley, Clerk

United States of America
v.
Rene Isaac GARCIA YOB: 1946

Case No.

11-16-1956-M

USC

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of 10/20/2016 in the county of Hidalgo in the Southern District of Texas, the defendant violated Title 18 U. S. C. § Section 922 (g)(1), an offense described as follows:

The defendant, did knowingly and unlawfully possess two (2) firearms, namely a Marlin Firearms, model 39AS, .22 caliber lever action rifle, bearing serial number 01068107 and a Marlin Firearms, model 336, 30-30 caliber lever action rifle bearing serial number 25043051 that have previously traveled in and affected interstate commerce, after being convicted in a court of law for a felony crime punishable by imprisonment for a term exceeding one year.

This criminal complaint is based on these facts:

SEE ATTACHMENT A

☒ Continued on the attached sheet.Approved by David A. Lindemann
PS 10/21/16

Complainant's signature

Alexander Estrada ATF Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date:

October 21, 2016 8:54am

Judge's signature

City and state:

McAllen, TX

Peter Ormsby, U.S. Magistrate Judge

Printed name and title

ATTACHMENT A

I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), a Division of the United States Justice Department, and have been so employed since January 17, 2016. I am currently assigned to McAllen Group III (Firearms Trafficking). Previous to this employment, after I was honorably discharged from the United States Navy, I attended Eastern Michigan University and received a Bachelor of Arts degree in Criminal Justice. I am a graduate from the Federal Law Enforcement Training Center and the ATF National Academy. As a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives, I am vested with the authority to investigate violations of Federal law, including Titles 18 and 26, United States Code.

This affidavit is in support of a criminal complaint charging Rene Isaac GARCIA (hereinafter referred to as "GARCIA"), with the criminal violation set forth in Attachment A. The evidence available to me demonstrates that there is probable cause to believe that GARCIA has violated Title 18 U.S.C 922(g)(1) which provides as follows:

It shall be unlawful for any person who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year, to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

Further, the Affiant states as follows:

On October 20, 2016, your Affiant was contacted by Drug Enforcement Administration (DEA) Task Force Officer (TFO) Gilberto Vazaldua requesting ATF assistance at 157 W. Las Milpas Rd Pharr, TX. Your affiant and ATF Special Agent (SA) Michael Cardenas arrived at the aforementioned address and made contact with DEA TFO Vazaldua. DEA TFO Vazaldua advised your affiant that they received information from a source of information (SOI) stating that the SOI had seen several kilograms of cocaine at the aforementioned location recently. DEA TFO Vazaldua advised your affiant that they approached the residence and made contact with GARCIA. DEA TFO Vazaldua advised GARCIA the reason for the visit and written consent was given to search the property by GARCIA. GARCIA was found at the residence with his son, Eduardo Garcia. Prior to searching the residence, Eduardo Garcia stated that he had a pistol that would be located next to where he was sitting underneath the car port. Agents observed the firearm and removed it for safe keeping. DEA TFO Vazaldua stated that GARCIA advised them he had two additional firearms inside his residence. A search revealed two firearms described as follows: one (1) Marlin Firearms, model 39AS, .22 caliber lever action rifle, bearing serial number 01068107 and one (1) Marlin Firearms, model 336, 30-30 caliber lever action rifle bearing serial number 25043051. Your affiant was advised that a Computerized Criminal History check was conducted on GARCIA and determined that GARCIA had a previous felony conviction.

As a result of this, GARCIA was transported to the Pharr Police Department (PPD) for further questioning.

ATTACHMENT A

At approximately 6:45pm, PPD Investigator Vasquez, in the presence of your affiant and SA Cardenas, advised GARCIA of his Miranda Rights. GARCIA stated he understood his rights and agreed to speak to Agents.

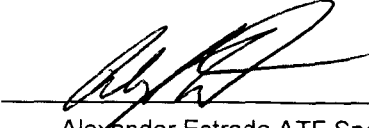
GARCIA stated that his son, Edwardo Garcia, was the owner of the pistol Edwardo Garcia was found to be in possession of. GARCIA stated that approximately four to five (4-5) months ago Edwardo Garcia brought down the 30-30 lever action rifle from Springfield, Illinois. GARCIA stated Edwardo Garcia resided in Springfield, Illinois. GARCIA stated Edwardo Garcia left the firearm in the possession of GARCIA. GARCIA stated he handled the 30-30 rifle on occasion but never shot the 30-30 rifle. GARCIA stated approximately one (1) year ago Edwardo Garcia brought down the .22 caliber lever action rifle from Springfield, Illinois. GARCIA stated Edwardo Garcia gave GARCIA the .22 caliber rifle. GARCIA stated he had a problem with an infestation of pigeons in his detached garage so he would shoot at the pigeons to scare them off. GARCIA stated he used the .22 caliber rifle on three different occasions.

On October 20, 2016, your affiant spoke with ATF Special Agent Patrick Briody, who is a recognized expert in the interstate and foreign commerce travel of firearms and ammunition. Based on the information your affiant provided SA Briody about the firearms possessed by GARCIA, SA Briody stated the firearms were manufactured outside of the State of Texas and therefore, previously traveled in interstate or foreign commerce at sometime prior to being possessed by any person in the State of Texas.

On October 20, 2016, your affiant conducted a Computerized Criminal History check on GARCIA and determined that GARCIA was arrested on January 1, 1988 by the Drug Enforcement Administration for Conspiracy to Possess with Intent to Distribute Marijuana and sentenced to Bureau of Prisons (BOP) for seventy-eight (78) months. GARCIA was released from BOP and placed on Supervised Release in 1994.

Garcia was convicted for this offense. M

Based on the above information, your affiant believes Rene Isaac GARCIA, was in possession of the above mentioned firearms in violation of Title 18, United States Code, Section 922(g)(1), on October 20, 2016, in Hidalgo County, Texas.



Alexander Estrada ATF Special Agent

Sworn to before me and subscribed in my presence,

October 21, 2016

Peter Ormsby, U.S. Magistrate Judge

